

FILED
SCRANTON

JUL 27 2001

PER

DEPUTY CLERK

Tauheed A. Lloyd # CV-4481

S.D. I. GREENE

175 PROGRESS DRIVE

WAYNESBURG, PA 15310

COPY

IN The United States District Court For The Middle
District of Pennsylvania

Tauheed A. Lloyd

Plaintiff

v.

Todd Setlock, & Kevin Ebner

IN Their Official Capacity, et al

Defendants.

: Civil Action

: No. CV-00568

: (Magistrate Judge

: Blewitt)

(ANSWER AND OPPOSITION TO DEFENDANTS Motion to dismiss)

This motion is AN RESPONSE to defendants setlock & Ebner
Attorney FRANK L. TAMULONIS, JR. motion to dismiss plaintiff
Tauheed A. Lloyd 1983 civil rights complaint on the grounds
that plaintiff filed his complaint after the "statute of
limitation expire."

1. Argument

Attorney FRANK L. Tamulonis, Jr. Argument to dismiss
plaintiff Tauheed A. Lloyd 1983 complaint is FRIVOLOUS AND
have NO MERIT due to the fact plaintiff filed his complaint
within the two year statute of limitation period. Plaintiff
Lloyd claims are supported by court documents

Attach to this motion.

2. CONCLUSION

Accordingly, it is respectfully submitted that the defendant's motion to dismiss, shouldn't be granted.

Verification

I Tauheed A. Lloyd, verify that the statements made in the foregoing are true and correct to the best of my knowledge, information and belief. I understand that any false statements made herein are ~~st~~ subject to penalties of perjury, 18 Pa. C.S.A. 4904, relating to unsworn falsification to authorities.

This 24th day of July 2001

Tauheed A. Lloyd

Tauheed A. Lloyd # CV-4481

S.C.I. GREENE

175 PROGRESS DRIVE

WAYNESBURG, PA 15370

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE
DISTRICT OF PENNSYLVANIA

Tauheed A. Lloyd

Plaintiff

v.

Todd Setlock & KEVIN EBNER

IN THEIR OFFICIAL CAPACITY, ET AL
DEFENDANTS.

• CIVIL ACTION

• NO. CV-00568

• (Magistrate Judge

• Brewitt)

"CERTIFICATE OF SERVICE"

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE
ATTACHED MOTION OF PLAINTIFF TO ANSWER AND OPPOSITION
HAS BEEN SERVED BY FIRST CLASS/CERTIFY MAIL, POSTAGE
PREPAID ON THIS 24TH DAY OF JULY, 2001, TO THE FOLLOW-
ING PARTIES.

FRANK L. TAMULONIS, JR.

ATTORNEY FOR THE DEFENDANTS

P.O. Box 238

Pottsville, PA 17901

(570) 622-1988

Tauheed A. Lloyd

S.C.I. GREENE

175 PROGRESS DRIVE

WAYNESBURG, PA. 15370

By: Tauheed A. Lloyd

" 3 copies "

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
U.S. COURTHOUSE
INDEPENDENCE MALL WEST
601 MARKET STREET
PHILADELPHIA, PA 19106-1797

MICHAEL E. KUNZ
CLERK OF COURT

CLERK'S OFFICE
ROOM 2609

September 23, 1999

TAUHEED A. LLOYD
CV4481
1040 E. ROY FURMAN HWY.
WAYNESBURG, PA 15370-8090

Dear Petitioner:

This will acknowledge receipt of the following documents:

☒ 42 U.S.C. §1983 Civil Rights Complaint
☐ 28 U.S.C. §2254 Habeas Corpus Petition
☐ 28 U.S.C. §2255 Motion to Vacate, Set
Aside or Correct Sentence
☐ 28 U.S.C. §2241 Habeas Corpus Petition
☐ Writ of Mandamus
☐ Copy of Receipt for payment of filing fee.
☐ Other _____

The case number assigned :99-CV-4738
and the caption is as follows: LLOYD V. SETLOCK, ET AL.

You will be advised of any further action and/or disposition.

Very truly yours,
Michael E. Kunz,
Clerk

Enclosure

" 3 copies "

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LLOYD A. TAUHEED

:
:
:
:
:

CIVIL ACTION

v.

TODD SETLOCK, INDIVIDUALLY AND
IN HIS OFFICIAL CAPACITY, et al :

NO. 99-4738

FILED DEC 21 1999

M E M O R A N D U M

POLLAK, J.

November
OCTOBER

, 1999

Plaintiff, a prisoner, has filed a pro se 42 U.S.C. § 1983 civil rights complaint against two correctional officers at the Schuylkill County prison. He is alleging that he was physically assaulted by the defendants.

For the reasons outlined below, the court will grant plaintiff leave to proceed in forma pauperis, and transfer this civil action to the United States District Court for the Middle District of Pennsylvania.

Venue for actions under 42 U.S.C. § 1983 is governed by 28 U.S.C. § 1391(b), which provides that this action may be brought in: "(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought."

ENTERED

DEC - 1 1999

CLERK OF COURT

The alleged constitutional violation occurred in Schuylkill County, Pennsylvania, which is located in the Middle District of Pennsylvania. Since the claim did not arise in the

Eastern District of Pennsylvania, and the defendants do not appear to be located in the Eastern District of Pennsylvania, venue is improper in this court.

When venue is improper, as in this case, the court may, in the interests of justice, transfer the case to a district court in which it could have been brought. 28 U.S.C. § 1406(a). Under the facts set forth in the complaint, the case could have been brought in the Middle District of Pennsylvania.

Pursuant to 28 U.S.C. § 1406(a), the court will transfer the case to the United States District Court for the Middle District of Pennsylvania.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA


LLOYD A. TAUHEED : CIVIL ACTION
: :
v. : :
: :
TODD SETLOCK, INDIVIDUALLY AND :
IN HIS OFFICIAL CAPACITY, et al : NO. 99-4738

O R D E R

This 29 day of ^{November}~~October~~, 1999, in accordance with the
Memorandum filed this date, it is ORDERED that:

1. Leave to proceed in forma pauperis is GRANTED; and
2. The Clerk is directed to TRANSFER this action to the
United States District Court for the Middle District of
Pennsylvania, along with a certified copy of the docket and all
papers and the file in this matter. This transfer is without
prejudice to the authority of the transferee court, the United
States District Court for the Middle District of Pennsylvania, to
determine whether the complaint should be dismissed pursuant to
28 U.S.C. § 1915(e).

BY THE COURT:



LOUIS H. POLLAK, J.